

CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG

Mayor



DEPARTMENT OF PUBLIC WORKS

Rudolph S. Chow, P.E., Director
Abel Wolman Municipal Building, 6th Floor
200 Holliday Street
Baltimore, Maryland 21202

May 8, 2020

Via Electronic Mail

Ms. Nina Rivera
Senior Assistant Regional Counsel
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

Mr. Andrew Dinsmore
NPDES Enforcement Branch Chief
Water Protection Division
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

Ms. Andrea Baker
Principal Counsel
Maryland Department of the Environment
Office of the Attorney General
1800 Washington Blvd.
Baltimore, MD 21230

Ms. Sharon Talley
Chief
Enforcement Division, Compliance Program
Water Management Administration
Maryland Department of the Environment
1800 Washington Blvd.
Baltimore, MD 21230

RE: Notice of Potential Delay

Dear Ms. Rivera, Mr. Dinsmore, Ms. Baker, and Ms. Talley:

In accordance with Paragraph 45, of the Modified Consent Decree ("MCD") addressing wet weather sanitary sewer overflows in Baltimore City ("Baltimore" or the "City"), I am writing to

give notice of a potential delay that may affect timely completion of a project set forth in Appendix B. Specifically, the City has received notice from its contractor that it may be unable to complete Sanitary Contract ("SC") 941 within the specified deadline due to unforeseen delays which constitute a force majeure.

The MCD defines a force majeure "as an event arising from causes beyond the control of Baltimore or the control of any entity controlled by Baltimore, including its agents, consultants and contractors which delays or prevents the performance of any obligation under this Consent Decree." (MCD at p. 68, ¶ 44.) The MCD further lists in Appendix B, Phase I projects and their designated construction completion deadlines. Here, SC 941 has a deadline of January 1, 2021, which is subject to stipulated penalties as set forth in Paragraph 31(b).

SC 941 is a sewer rehabilitation project within portions of the Jones Falls Sewershed that includes, in part, the construction of a larger siphon structure under Falls Road to accommodate wet weather events. The project has been faced with minor delays at its outset. Specifically, bid plans were submitted to the Maryland Department of Transportation in April 2018, based on the design of the siphon structure. Maryland Department of Transportation conferred with the State Highway Administration to determine if the siphon would constitute a bridge. These discussions continued for some time and Maryland Department of Transportation did not approve the plans for the siphon structure until August 1, 2018.

Thereafter, the project was advertised on or about February 10, 2019, and ultimately awarded to Anchor Construction Corporation ("Anchor"), and Notice to Proceed was issued on November 12, 2019. The City recognizes that this is a tight timeframe in which to complete the subject sewer rehabilitation work. Moreover, the project may be further delayed due to supply chain disruptions. DSI Tunneling LLC, a supplier of steel plates necessary for the construction of the siphon structure, has provided notice of impacts to its manufacturing operations and shipments, through a letter dated April 16, 2020. On April 24, 2020, Anchor requested a waiver of the January 1, 2021 deadline set forth in the contract, noting that completion of the siphon structure is not possible by the stated deadline. Thereafter, on April 29, Anchor provided notice to the City that a subcontractor, Granite Inliner was unable to provide a crew because a member had tested positive for COVID-19. The crew was placed on quarantine, which has delayed all work by Granite Inliner for two weeks, or until another crew could be moved to the project.

The City will attempt to expedite work under this contract, but Anchor has indicated that completion of the siphon will not be possible by the MCD deadline. The baseline schedule submitted for the project indicates that functional use of the sanitary sewer work will be completed by March 29, 2021. We are happy to discuss this matter further at your convenience. Please contact me directly with any questions or concerns.

Ms. Rivera, Mr. Dinsmore,
Ms. Baker, and Ms. Talley
May 8, 2020
Page 3 of 3

Respectfully,



Paul N. De Santis
Chief of Legal & Regulatory Affairs
Baltimore City Department of Public Works

Attachment

cc: Mr. Matthew W. Garbark
Mr. Yosef Kebede, P.E.
Ms. Lauren Swiecicki, P.E.
Ms. Dawn Lettman